United Nations A/59/664–S/2005/7

General Assembly
Security Council

Distr.: General
12 January 2005

Original: English

General Assembly
Fifty-ninth session
Agenda item 29
Question of Cyprus

Security Council
Sixtieth year

Letter dated 10 January 2005 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter dated 3 January 2005 addressed to you by His Excellency Mr. Reşat Çağlar, Representative of the Turkish Republic of Northern Cyprus (see annex).

I would be grateful if the text of the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 29, and of the Security Council.

(*Signed*) Baki İlkin
Ambassador
Permanent Representative

05-20758 (E) 170105

Annex to the letter dated 10 January 2005 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

With reference to the several statements made by the representatives of the Greek Cypriot Administration during the meetings of the various Committees of the General Assembly at its fifty-ninth session, I wish herein to set the record straight.

Year after year, we have witnessed the appearance of Greek Cypriot officials before United Nations bodies to repeat their well-known baseless allegations against Turkey and the Turkish Republic of Northern Cyprus, ignoring the fact that the very title they sail under is a usurped one secured only by violence in December 1963.

None of the United Nations resolutions to which references are made in the above-mentioned statements describe the legitimate and justified Turkish intervention of 1974, undertaken in accordance with the Treaty of Guarantee of 1960, as "aggression" or "invasion", or the subsequent presence of Turkish troops on the island as "occupation". Such distortions are purely a Greek Cypriot invention aimed at blurring the issue and confusing the innocent with the guilty. On this point, I would only like to recall the dramatic statement made by Archbishop Makarios, the Greek Cypriot leader at the time, before the Security Council on 19 July 1974, in which he openly accused Greece, not Turkey, of invading and occupying Cyprus. His remarks, which came only four days after the Greek coup of 15 July 1974, are well recorded in the annals of the United Nations and hardly require further elaboration.

What had been going on in Cyprus before the coup, however, is just as significant, if not more so. The years from 1963 to 1974 were a period in which the Greek Cypriots, aided and abetted by Greece, practised ethnic cleansing, terrorism and tyranny against the Turkish Cypriots, all in the name of enosis (annexation of the island to Greece). The atrocities committed by the Greek Cypriots during that period drew comments from the international news media, such as *The Washington Post*, which reported in its issue of 17 February 1964 that "Greek Cypriot fanatics appear bent on a policy of genocide"; from prominent statesmen like George Ball, a United States Under-Secretary of State at the time, who wrote in his memoirs, entitled *The Past Has Another Pattern*, that "Makarios's central interest was to block off Turkish intervention so that he and his Greek Cypriots could go on happily massacring Turkish Cypriots" (p. 64); and from the United Nations Secretary-General himself, who reported to the Security Council on 10 September 1964 that the Turkish Cypriots had been put under "veritable siege" (see S/5950 and Corr.1). The attempt by Greek Cypriot officials to brush aside the 11-year-long ordeal of the Turkish Cypriots is, to say the least, outrageous. It shows their total insincerity and refusal to show any sign of remorse or an attitude conducive to reconciliation.

Despite their bitter past experience, the Turkish Cypriot people, in stark contrast, continued to adopt a conciliatory approach and proved, beyond any doubt, their willingness and sincerity regarding a fair and just settlement in Cyprus by voting overwhelmingly in favour of your settlement plan on 24 April 2004. This declared will of the Turkish Cypriot people, as you have clearly stated in your mission of good offices report on Cyprus (S/2004/437) dated 28 May 2004, "has undone any rationale for pressing and isolating them". In the same report, you also called on the international community "to eliminate unnecessary restrictions and

barriers that have the effect of isolating the Turkish Cypriots and impeding their development". We have no doubt that you are as anxious as the Turkish Cypriot side is to see that the report is taken up by the Security Council and endorsed with a resolution that would reflect the letter and the spirit of this historical document. In the meantime, however, despite the efforts of the Greek Cypriot administration to the contrary, we expect the international organizations, as well as the individual countries, to take concrete steps towards ending the isolation of the Turkish Cypriot people. Such a prospect would not only be fair and just, but would also encourage the Greek Cypriot side to see the benefits of a negotiated settlement.

As for the Greek Cypriot representatives' utterances regarding a political settlement in Cyprus, your remark in the same report that "what was rejected [by the Greek Cypriots] was the solution itself rather than a mere blueprint" needs no further elaboration. In this context, you also stated that "if the Greek Cypriots are ready to share power and prosperity with the Turkish Cypriots in a federal structure based on political equality, this needs to be demonstrated, not just by words, but by action" and that "if they [Greek Cypriots] remain willing to resolve the Cyprus problem through a bicommunal, bizonal federation, this needs to be demonstrated. Lingering Greek Cypriot concerns about security and implementation of the plan need to be articulated with clarity and finality". To date, this call has not been properly responded to by the Greek Cypriot leadership. The failure and unwillingness of the Greek Cypriot side to do so clearly demonstrates that it is not, and has never been, interested in a mutually acceptable solution in Cyprus, despite continuously professing to the contrary.

We only hope that the Greek Cypriot side will adopt the necessary constructive approach without further delay and, instead of impeding international efforts aimed at ending the isolation of the Turkish Cypriot people, begin to positively contribute to them, in line with your call to the international community.

(*Signed*) Reşat **Çağlar**
Representative
Turkish Republic of Northern Cyprus

United Nations A/59/665–S/2005/8

General Assembly
Security Council

Distr.: General
10 January 2005

Original: English

General Assembly
Fifty-ninth session
Agenda item 29
Question of Cyprus

Security Council
Sixtieth year

Letter dated 10 January 2005 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter dated 4 January 2005 addressed to you by His Excellency Mr. Reşat Çağlar, Representative of the Turkish Republic of Northern Cyprus (see annex).

I would be grateful if the text of the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 29, and of the Security Council.

(*Signed*) Baki **İlkin**
Ambassador
Permanent Representative

05-20752 (E) 170105

Annex to the letter dated 10 January 2005 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

Upon instructions from my Government, and further to our letter dated 29 November 2004 (A/59/589-S/2004/940, annex), I have the honour to refer to the letter dated 16 December 2004 addressed to you by the Greek Cypriot representative in New York and circulated as a document of the General Assembly and of the Security Council (A/59/627-S/2004/980), which yet again contains allegations of violations of the "airspace of the Republic" and "of the flight information region of Nicosia", and to bring to your kind attention the following:

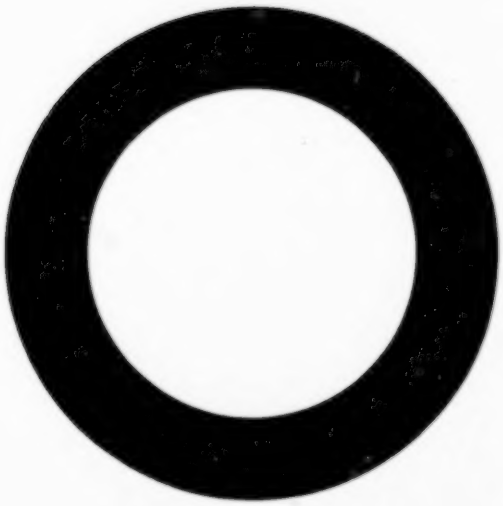
In response to such false and pretentious allegations, I wish, once again, to reiterate that flights within the sovereign airspace of the Turkish Republic of Northern Cyprus take place with the full knowledge and consent of the appropriate authorities of the State, over which the Greek Cypriot administration in South Cyprus has no jurisdiction or right of say whatsoever. Furthermore, it should be emphasized that allegations of so-called violations of the flight information region or violations of air traffic regulations are invalid, as the civil aviation authority of the Turkish Republic of Northern Cyprus is the only competent authority to provide air traffic and aeronautical information services.

As stated in our previous letters, such allegations are based on the false and illegitimate claim that the sovereignty of the Greek Cypriot administration extends over the whole island, including the territory of the Turkish Republic of Northern Cyprus. This claim by the Greek Cypriot side is divorced from the existing realities in Cyprus, namely, the existence of two independent States, each exercising sovereignty and jurisdiction within and above its respective territory on the island.

Attempts by the Greek Cypriot representatives, through often-repeated false claims, to confer legitimacy upon an illegal administration will be futile as long as the Turkish Cypriot people refuse to bow to its writs. What would indeed be conducive to a better climate on the island would be for the Greek Cypriot side to stop arrogating onto itself rights and responsibilities it does not legally have and to cease all hostilities towards the Turkish Cypriot people.

It has been more than six months since you, in the report on your mission of good offices on Cyprus (S/2004/437) of 28 May 2004, called on the international community to "eliminate unnecessary restrictions and barriers that have the effect of isolating the Turkish Cypriots and impeding their development". The Greek Cypriot administration, which was required to heed this call and take steps accordingly, has instead been pursuing an all-out campaign in every forum against any effort aimed at giving Turkish Cypriots a breathing space. Its current blockage of the adoption by the European Council of the Commission's financial aid and direct trade regulations stands witness to this reality. The continuation of such hostile policies of the Greek Cypriot administration clearly indicates that the Greek Cypriot administration has not moved even an inch from its maximalist policies vis-à-vis a settlement in Cyprus, which had led to the rejection of your settlement plan by the Greek Cypriot side on 24 April 2004.

(*Signed*) Reşat Çağlar
Representative
Turkish Republic of Northern Cyprus



United Nations A/59/666–S/2005/9

General Assembly
Security Council

Distr.: General
7 January 2005
English
Original: English and French

General Assembly
Fifty-ninth session
Agenda item 18
Election of judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixtieth year

Identical letters dated 6 January 2005 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council

I wish to bring to your attention two important matters that have a direct impact on the ability of the International Tribunal for the Former Yugoslavia to implement its completion strategy. Both concern the ad litem judges of the Tribunal.

You may recall in this connection that the term of office of the members of the current pool of ad litem judges of the Tribunal will come to an end on 11 June 2005. You may also recall that, under the Tribunal's statute, ad litem judges are not eligible for re-election. All members of the current pool of ad litem judges will therefore cease to be ad litem judges of the Tribunal on 11 June 2005.

The first matter that I wish to draw to your attention concerns a number of ad litem judges whom I have already appointed to serve in the Tribunal for the trial of particular cases.

President Meron has advised me that, of the nine ad litem judges who are currently serving in the Tribunal, two are adjudicating in a case that is due to finish within the next two weeks. The other seven, however, are adjudicating in cases which he anticipates will continue beyond 11 June 2005.

Specifically, ad litem judges Brydensholt and Eser are currently adjudicating, together with permanent judge Agius, in the Orić case. President Meron informs me that it is anticipated that the hearings in this case, which commenced on 6 October 2004, will be completed and judgement handed down in November 2005.

Ad litem judges Rasoazanany and Swart are adjudicating, together with permanent judge Antonetti, in the trial of the Hadžihasanović case. President Meron informs me that it is anticipated that hearings in that case, which commenced on 2 December 2003, will be completed and judgement handed down in September 2005.

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Ad litem judges Thelin and Van den Wyngaert are adjudicating, together with permanent Judge Parker, in the trial of the Limaj case. President Meron informs me that it is anticipated that hearings in that case, which commenced on 15 November 2004, will be completed and judgement handed down in November 2005. In this connection, it may be recalled that, in its decision 59/406 of 19 November 2004, the General Assembly elected ad litem judge Van den Wyngaert as a permanent judge of the International Tribunal. Her term of office as a permanent judge will not commence however until 17 November 2005.

Ad litem judge Canivell is adjudicating, together with permanent judges Orie and El-Mahdi, in the trial of the Krajišnik case. Hearings in that case commenced on 3 February 2003. President Meron has informed me that permanent judge El-Mahdi will be stepping down from that case on 14 January 2005. It has nevertheless been decided that proceedings may continue with a substitute judge sitting in Judge El-Mahdi's stead. Depending on the position that the Security Council and the General Assembly may take with regard to the second matter addressed in the present letter, it is envisaged that proceedings in that case may accordingly continue as early as 14 February 2005. In that event, President Meron informs me that it is anticipated that proceedings in the case should be completed and judgement handed down in April 2006.

If the seven ad litem judges concerned were not allowed to continue to adjudicate in those cases beyond 11 June 2005, it would be necessary to start each trial anew with fresh panels of judges and to order the rehearing of witnesses and the representation of arguments. That would obviously have a serious negative impact on the ability of the Tribunal to achieve the target dates in its completion strategy. It would also have substantial financial consequences.

The statute of the International Tribunal for the Former Yugoslavia does not contain a provision similar to that contained in Article 13, paragraph 3, of the Statute of the International Court of Justice whereby judges continue to discharge their duties until they are replaced and, thereafter, until they finish any cases they may have begun.

In the absence of any such provision, the approval of the Security Council, as the parent organ of the Tribunal, and of the General Assembly, as the organ that elects its judges, would be needed in order to permit the seven ad litem judges concerned to continue to serve in the Tribunal beyond 11 June 2005 and to finish the cases in which they are currently adjudicating, notwithstanding the expiry of their terms of office. I would request that the Security Council and the General Assembly grant such approval.

The second matter that I wish to draw to your attention concerns requests that I have recently received from President Meron that I appoint two additional members from the current pool of ad litem judges to serve in the Tribunal for trying cases. In both cases, it is anticipated that the trials concerned will continue beyond 11 June 2005.

Specifically, President Meron has requested that I appoint ad litem judge Szénási to serve in the Tribunal for the trial of the Halilović case. He informs me that that trial is ready to commence on 24 January 2005 and is expected to last some nine months. If that trial were to commence on 24 January 2005, judgement would accordingly be handed down in October 2005.

President Meron has also requested that I appoint ad litem judge Hanoteau to serve in the Tribunal for the trial of the Krajišnik case. As has been noted above,

that trial is already under way. However, one of the judges who is currently adjudicating in that trial will be stepping down from the case on 14 January 2005. It has nevertheless been decided that proceedings may continue with a substitute judge. President Meron informs me that, if appointed, Judge Hanoteau would be that substitute judge. He also informs me that if Judge Hanoteau is appointed with effect from 18 January 2005, he expects that the judge should be able to familiarize himself with the record of the proceedings in time for hearings to be able to resume as early as 14 February 2005. In that event, it is anticipated that proceedings in the case would be completed and judgement handed down in April 2006.

Having reviewed those requests, it is my view that, except insofar as they would involve the appointment of ad litem judges to trials that would continue beyond their term of office, they comply with the relevant terms of the statute of the Tribunal. Subject to the comments below, it would accordingly be my intention to appoint those ad litem judges to serve in the Tribunal for the trial of the two cases concerned.

However, before I proceed to do so, I would consider it highly desirable that the Security Council and the General Assembly first agree that the judges concerned, if appointed, may continue to serve in the Tribunal for the trials of the cases in question and to finish those trials, notwithstanding the expiry of their term of office. I would therefore request that the Security Council and the General Assembly grant such approval.

President Meron has informed me that he does not anticipate making any further requests that I appoint members of the current pool of ad litem judges to serve in the Tribunal for the trial of cases.

President Meron also informs me that, were the Security Council and the General Assembly to adopt the decisions sought in the present letter, both with regard to the seven ad litem judges who are currently serving in the Tribunal and with regard to the two additional ad litem judges whose appointments are being sought, he does not anticipate that the cumulative period of service of any of the ad litem judges concerned would amount to or exceed three years. The limit on the cumulative length of appointments of ad litem judges laid down in the Tribunal's statute would therefore continue to be observed.

The statutory limit on the number of ad litem judges who may be appointed to serve in the Tribunal at any one time would also continue to be observed.

Were the Security Council and the General Assembly to adopt the decisions sought, no additional financial requirements would arise for the budget of the Tribunal for the biennium 2004-2005. Requirements for the ad litem judges for 2006-2007 would be considered in the context of the Tribunal's proposed budget for the biennium 2006-2007.

I am sure that you will agree that it is highly desirable that every effort be made to ensure that the Tribunal remains in the best possible position to achieve the target dates in its completion strategy. I should accordingly be most grateful if you would bring the present letter to the immediate attention of the members of the General Assembly, under agenda item 18, and of the Security Council in order that they might take appropriate action on the matters that I have raised as soon as possible.

(*Signed*) Kofi A. **Annan**

United Nations S/2005/10

Security Council

Distr.: General
7 January 2005

Original: English

Report of the Secretary-General on the Sudan pursuant to paragraphs 6, 13 and 16 of Security Council resolution 1556 (2004), paragraph 15 of resolution 1564 (2004) and paragraph 17 of resolution 1574 (2004)

I. Introduction

1. The present report is submitted pursuant to paragraphs 6, 13 and 16 of Security Council resolution 1556 (2004), paragraph 15 of resolution 1564 (2004) and paragraph 17 of resolution 1574 (2004).

II. Security

2. A meeting of the Joint Implementation Mechanism was held on 5 December 2004 to discuss the recent spate of militia attacks against the rebel movements in Darfur. The Vice-Chairman of the African Union Ceasefire Commission alleged that the Government had been involved in these attacks by militia. The Government, represented by its Foreign Minister, denied this but said that it would defend freedom of movement by carrying out "clearing operations" on main roads in Darfur. My Special Representative stated that the Government has not only the right but also a duty to protect freedom of movement by civilians in Darfur. However, he pointed out that the Government must exercise restraint in taking related measures, ensuring that agreements are respected and civilians are not harmed and that any militia under the influence of the Government do likewise.

3. From around 7 December 2004, violent confrontations broke out between government forces and the Sudan Liberation Movement/Army (SLM/A) in north and south Darfur. Unlike during November 2004, when SLM/A initiated most of the attacks, many of the clashes in December were triggered by government road-clearing operations, which the Government defined as operations aimed at clearing the roads of banditry and re-establishing its control over the main roads. At the end of December, a series of attacks were carried out by rebel groups in east Darfur and west Kordofan, resulting in a significant number of casualties and interruption on the main routes of humanitarian and other traffic into Darfur.

4. Although the African Union Ceasefire Commission had informed the Government beforehand that the road-clearing operation was a violation of the ceasefire agreement, military action began in parts of north and south Darfur on

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7 December, the eve of the Abuja III talks. The same day, the government military intelligence and national security services informed my Special Representative that the Government was planning to conduct such operations and advised him to inform the humanitarian organizations about the operation. The Government specifically stated that it was not intending to attack or occupy SLM/A-held areas during these operations. The corridors identified by the Government were El Fasher-Kutum, El Fasher-Kebkabiya, El Fasher-Mellit, El Fasher-Koma-Um Keddadah, El Fasher-Omdurman and El Fasher-Thabit-Shangal Tobay-Nyala.

5. At the beginning of December, the Government started a massive build-up of forces and logistics in Darfur. It seems that several hundred troops were brought into El Fasher (north Darfur) and Nyala (south Darfur), as reinforcements to carry out road-clearing operations. Reports indicate that the Government used vehicle-borne infantry backed by armoured vehicles to clear the roads, with Antonov fixed-wing aircraft in an observation role. Helicopter gunships were reported to have been used in an offensive mode in these operations, but those reports are not as yet confirmed.

6. On 7 December, Government forces attempted to take control of the Thabit area, a SLM/A stronghold near El Fasher. Renewed fighting was reported in the same area on 8 December, with reports indicating the Government's use of the air force. SLM/A withdrew when attacked in many of these cases. African Union (AU) monitors observed major military activity, including joint Government-militia attacks involving looting and burning of villages in Hashaba and Konkono (south Darfur) on 11 and 12 December. Clashes occurred in such areas as El Jera village between El Kuma and Sayiah (north Darfur) and Dar es Salaam (north Darfur), both on 8 and 9 December.

7. During an attack on Labado (south Darfur) on 17 and 18 December, a Médecins sans frontières aid worker was shot dead, and 12 of the national staff of international NGOs still remain unaccounted for at the time of writing.

8. On 19 December, a Joint Implementation Mechanism meeting was convened to address the security situation in Darfur. The African Union representative gave the Joint Implementation Mechanism members a general briefing, in which he raised concern about possible further escalation of the fighting. In response, the Government stated that despite its efforts to exercise maximum restraint, its recent road-clearing operation was triggered by SLM/A ceasefire violations, including banditry on major roads that has led to major disruption of civilian and commercial traffic.

9. The Government reminded the Joint Implementation Mechanism that it had taken steps to comply with its obligations in good faith, providing AU with maps indicating the area under its control, as stipulated in the Abuja Security Protocol. SLM/A, on the other hand, had not yet done so. Moreover, the Government's offer to provide police who would operate under AU command and assist it in protecting the roads had been declined by AU at the 24 November 2004 meeting of the Mechanism on the grounds that to do so would compromise its impartiality. AU clarified later that although it had some reservations initially, it had not totally rejected the offer and consideration was being given to the possibility of working with Sudanese police in protecting roads in Darfur.

10. Although many Joint Implementation Mechanism partners and the Deputy Special Representative for Political Affairs recognized the rebel movement's lack of commitment and its continued violation of the ceasefire agreements, many saw the recent actions by the Government as going beyond what could be justified as self-defence. They argued that violence could escalate unless the Government exercised maximum restraint. Moreover, the Government had been repeatedly reminded that its road-clearing operations, which it argues are triggered by humanitarian concerns, are causing further displacement, which is in contradiction with its obligation to protect civilians.

11. For his part, the Foreign Minister stated that the Government did not want to violate the ceasefire agreement but was left with no choice but to respond militarily. He stated the following commitments:

(a) The Government agreed to an immediate cessation of hostilities and expressed its full commitment to the ceasefire agreement. It agreed to cease hostilities, but that did not mean that it would not retaliate if attacked. The Government would take pre-emptive measures ("pre-emptive defence") if it deemed that it was under imminent threat of attack;

(b) Political negotiations, rather than military power, were the only means to settling the conflict in Darfur;

(c) The Government proposed a separation and withdrawal of forces by both parties to positions as of 8 April 2004;

(d) The Government would continue to provide protection on the major roads. It would also continue to seek the assistance of AU and explore with it the possibility of its taking over the task.

12. However, as recently as 3 January 2005, an attack by government forces on an SLM/A position in Sayah (north Darfur) was reported to have occurred with the use of aircraft. Although road-clearing operations seem to have been suspended for now, road traffic in Darfur is still adversely affected by the instability caused by the two-week operation undertaken by the Government.

13. In his address to the Joint Commission meeting in Abuja on 17 December 2004, the AU Ceasefire Commission chairman ascribed the recent insecurity in Darfur to a range of hostile moves by both sides and the resolve of all the parties, including the armed militias, to adopt a retaliatory posture to any action taken by the other. Despite the best efforts of the Chairman and the ultimatum he gave to both parties to cease hostilities during the last round of Abuja talks (demanding that the Government end its offensive and withdraw its forces to previous positions and SLM/A and the Justice and Equality Movement (JEM) cease attacks on roads and commercial traffic by 1800 hours on 18 December), the ultimatum expired with little or no impact on the ground. AU indicated that it would take measures against those who fail to comply, and although the measures were not specified it further indicated that it would report to its Peace and Security Council and eventually to the Security Council on the difficulties encountered, for appropriate action.

14. Although much international attention was focused on the Government's road-clearing operations, according to information corroborated by observers and humanitarian agencies in Darfur the following notable security incidents also occurred during December:

(a) On 2 December, armed militia attacked a market in Kebkabiya in north Darfur. On 5 December, armed tribesmen attacked SLM/A in Adwa (south Darfur). A village in Mershing (south Darfur) was also attacked by armed militia on 11 December. Two internally displaced persons, one 14-year-old girl and one 94-year-old man, were shot and killed inside Kirinding and Dorti internally displaced persons camps in west Darfur. Armed militia attacked the village of Birka, a location between El Fasher and Korma, on 17 December, resulting in the killing of five civilians and the injuring of five others;

(b) A passenger bus travelling from Khartoum to El Fasher was robbed by 10 armed persons in uniforms on camels on 13 December. Armed tribesmen also robbed two commercial trucks in Abu Surug (west Darfur), resulting in one armed robber being killed and two policemen injured;

(c) In south Darfur, on the Mershing and Domma road, AU reported that SLM/A was involved in the attack on the staff of Save the Children UK, resulting in two people being killed and one injured. On 16 December, eight commercial trucks, carrying relief commodities for a United Nations agency, were robbed by armed militia in north Darfur. The militia took cash and personal belongings but the food was untouched. Similarly, on two occasions on 8 and 17 December, SLM/A hijacked a total of 11 vehicles hired by a United Nations agency in the Muhajariya area, south Darfur. Five vehicles were emptied and seven drivers/mechanics are still being held by the group. An international NGO reported that its staff were ambushed by armed tribesmen on the road between Kass and Nyala, resulting in two of its staff reportedly being raped and one wounded. Also on 19 December, in Greda (south Darfur) SLM/A attacked commercially hired trucks carrying relief commodities and looted fuel from the trucks;

(d) On 14 December, some 20 villages were abandoned in the area between El Kuma and Saiyah in north Darfur, as fighting intensified between the Government and rebel movements. The AU Ceasefire Commission reported that the Government attack was supported by tribal militia in this area earlier in December and that eight villages were completely looted and burned down;

(e) Reports indicate that heavy retaliatory attacks by SLM/A in Rokira (south Darfur) against the Government attack on Adwa occurred on 30 November and 1 and 2 December. On 18 December, SLM/A attacked Sharif oil fields in south Darfur, apparently as retaliation against the Government's road-clearing operation, resulting in the killing of 10 soldiers and five civilians. Attacks by SLM/A occurred as recently as 3 January 2005 with an attack on Jarouf, approximately 60 kilometres north of Nyala (south Darfur);

(f) From 26 December, there were attacks by rebel groups against Government positions in west Kordofan on strategic routes into Darfur around Ghabeish and Alliet. Clashes outside Darfur cannot be verified by the AU Ceasefire Commission, and have in fact been claimed by new rebel groups rather than SLM/A or JEM, so it is not possible to say conclusively that they amount to a violation of the ceasefire agreement. However, this is a dangerous development not only in terms of the numbers of civilian casualties that have resulted but also in terms of their indirect effect in causing a rise in the price of commodities and a slowdown of humanitarian and commercial goods to Darfur.

15. Although the above list is by no means complete, the following trends can be inferred (some are familiar from previous months, others are new):

(a) Both the Government and SLM/A have repeatedly violated the ceasefire agreements. The Government explains its actions as a response to provocations by SLM/A, whose attacks on road traffic have brought constricting pressure to bear on supply lines, leading to rising commodity prices and insecurity of strategic goods to the population of state capitals. The purpose of the Government's road-clearing operation could be described as aimed at a broader Government objective to re-establish control of El Fasher and Nyala regions after the aggressive operation of SLM/A in November. The timing could be explained as the Government taking a possible last chance to reduce the rebel movement's areas of influence in Darfur before the conclusion of the north-south talks at the end of the year and prior to the establishment of the Government of National Unity;

(b) There is a build-up of fighting forces and arms on both sides of the conflict, including both the rebel forces and the Government allied militia. In his address to the Joint Commission meeting held in Abuja on 17 December 2004, the AU Ceasefire Commission Chairman stated that the quantity of arms and ammunition brought into Darfur to meet the present build-up of troops in the region was so astronomical that the issue was no longer whether there would be fighting or not but when the fighting would start. This points to a violation of the decision of the Security Council in paragraph 7 of its resolution 1556 (2004), that all States shall take necessary measures to prevent the sale or supply of arms and related material to entities and individuals operating in Darfur;

(c) Several incidents have resulted in large-scale displacement of civilians and internally displaced persons. In north Darfur, some 16,000 internally displaced persons that had gathered around Thabit from Tawilla had to flee for the second time due to Government operations of 7 and 8 December. Among the internally displaced persons were families who had scattered to existing large locations of internally displaced persons following the SLM/A attack in the Tawilla area on 22 November. I am concerned to establish the whereabouts of an estimated 60,000 internally displaced persons and residents who fled following Government attacks in Labado and Marla on 19 December that are being investigated, and rising tensions in Muhajiria in mid-December;

(d) SLM/A has been forced to react defensively to protect its strongholds, thereby significantly lowering the number of attacks which it could initiate. Furthermore, there has been a decrease in banditry. However, this has not affected SLM/A vehicle and fuel hijacking operations aimed at vital tactical commodities. The clashes in west Kordofan could indicate an extension of the conflict to sites of great strategic importance outside of Darfur;

(e) In a return to the patterns seen several months ago, the AU Ceasefire Commission reports indicate that pro-Government militias, or Janjaweed, have been involved in road-clearing operations and have looted villages along the way;

(f) Military activity in west Darfur remained low, except for some low-level clashes between tribal militia. However, tensions remain as there are indications that Government troops are preparing for a major military operation in the Seleah/Jebel Moon areas. The prospect of intensified fighting would also depend on whether the National Movement for Reform and Development (NMRD) would adhere to its

agreement with the Government (which went into effect on 18 December) that (a) it would respect, inter alia, the N'Djamena Agreement of 8 April 2004, the Addis Ababa Agreement of 28 May 2004 and the Abuja Protocols of 9 November 2004 and (b) its position would be determined in fixed sites within a period not exceeding two months;

(g) A new trend was observed in the nature of violence and harassment towards the staff of international NGOs. While previous incidents have only been aimed at looting supplies and goods, December has seen acts of murder and vicious assaults on staff, forcing some agencies to leave Darfur;

(h) The killing of two internally displaced persons in camps was extremely disturbing. This was the first incident of internally displaced persons killed in their own camp, and it will add to their fear of insecurity. If we see more such killings inside camps, it might create another migration of internally displaced persons to other camps within Darfur; it could trigger their move to camps outside the Sudanese border; or they might feel forced to return to their places of origin in search of a secure environment.

III. Measures taken by the Government to comply with its obligations relating to the Janjaweed, ending impunity and confidence-building

16. The Government continues to disregard its obligations under paragraph 9 of Security Council resolution 1564 (2004), whereby the Council demanded that it submit to the AU Ceasefire Commission information with regard to its performance relative to resolution 1556 (2004) and the N'Djamena ceasefire agreement on the arrest and disarmament of Janjaweed. The Ceasefire Commission had not yet been invited to verify any disarmament activities by the Government. As I reported in my previous report (S/2004/947), during the meeting of the Joint Commission on 25 November, AU asked the Government to provide it with a plan and timetable for the disarmament of the Janjaweed and other militia. No reports have been provided. Furthermore, as I have noted in my previous three reports (S/2004/947, S/2004/881 and S/2004/787), the Government has not been forthcoming on the commitment it made at the Joint Implementation Mechanism meeting on 17 September to submit details of a plan to establish a commission to collect weapons. My Special Representative has not been provided with such a plan.

17. Impunity continues to prevail in Darfur. For two consecutive months, there has been no indication of government action to apprehend and bring to justice Janjaweed leaders in compliance with the repeated demands of the Security Council since the adoption of its resolution 1556 (2004).

18. Not only has the Government failed to apprehend militia members for past crimes but it has not taken effective action to stop their retaliatory acts. On the contrary, they have returned to the practice of including the militia in joint military operations. Actions must be put in place to protect the vulnerable against the Janjaweed and other armed militia and outlaw groups. Reports by the AU Ceasefire Commission that the Government is still acting alongside militia who loot and burn villages in military operations not only erode the credibility of the motives for

Government actions but also constitute a violation of its agreements and a clear defiance of the repeated demands of the Security Council.

19. During visits to the internally displaced persons camps by the Deputy Special Representative for Humanitarian Affairs and some humanitarian agencies, sheikhs and elderly men complained of continued insecurity around the camps. More reports indicate the difficulties that women internally displaced persons face in gathering firewood and grass outside their camps, as such items used for fuel tend to be forcefully taken away from them by men who are "patrolling" the area. Inaction by the police stationed around the camps in protecting those internally displaced persons and addressing security incidents and complaints has compounded the mistrust of internally displaced persons towards the police.

20. The International Commission of Inquiry established in October 2004 visited the Sudan from 7 to 21 November and continued its work with visits by the commissioners to Addis Ababa and Asmara to meet with representatives of AU and other relevant actors. The Commission's team of judicial investigators, analysts and forensic experts in the Sudan continued to investigate reports of alleged human rights and humanitarian law violations. The commissioners expect to return to Sudan in the first half of January 2005, ahead of the scheduled submission of the final report of the Commission by 25 January.

IV. The humanitarian situation in Darfur

21. The humanitarian situation in Darfur has not improved since my last report, as the benefits of increased humanitarian aid have been offset by the worsening security situation that has set off another round of displacements and increased the vulnerability of civilians. The number of conflict affected persons is now 2.2 million, a figure which includes about 1.7 million internally displaced persons identified as at 1 December and represents an increase of more than 10,000 since last month. More significantly, the sustained insecurity in Darfur has further exacerbated the already grave situation for about 100,000 people. Most of these had already been displaced, and the severe hardship that many of them have faced has been compounded, in many cases, by having to flee for their lives again and to re-establish themselves in harsh and hostile circumstances.

22. Continued work by the humanitarian agencies in areas that are still accessible has led to shelter and related non-food items reaching almost 70 per cent of the internally displaced persons as at 1 December. Just under half of the 2.2 million conflict affected people had access to clean water and half of the 1.7 million internally displaced persons had access to sanitation services. Primary and secondary health-care coverage was maintained at 64 and 45 per cent, respectively. The World Food Programme (WFP) distributed over 22,000 metric tons of food, covering 60 per cent of the affected population.

23. While the security situation in west Darfur is relatively stable, insecurity is reducing humanitarian assistance in both south and north Darfur. In north Darfur, the unpredictability of the security situation has led to inconsistent and unreliable deliveries of assistance in most areas. Further displacement has overburdened existing internally displaced persons gatherings and sites, placing particular strain on the available water and sanitation facilities. The attack on Tawilla on 22 November was especially damaging, as many of the NGOs and all of the United

Nations agencies had to temporarily suspend operations. Subsequent attacks on nearby locations on 7 and 8 December led to another round of displacement and restrictions on humanitarian operations for several days. The internally displaced persons that had scattered after the attack in Tawilla subsequently regrouped in existing large camps, mainly in El Fasher, Abu Shouk, Thabit and Gallab. For example, approximately 15,000 internally displaced persons from Tawilla have arrived in Abu Shouk and another 16,000 have gathered in Thabit. Furthermore, due to recent fighting, only 1,500 of the 8,000 internally displaced persons and resident population remain in Marla, and most of the 3,000 internally displaced persons and 11,000 residents left Labado, which was partially burned. Humanitarian organizations located some 10,000 internally displaced persons from Labado, who took refuge in the countryside south of Sharia and are making efforts to provide them with assistance. In Muhajiria, it is estimated that only some 20 per cent of the 40,000 to 50,000 internally displaced persons and residents remain in the city. The rest of the population is said to be hiding in the surrounding bush. In south Darfur, the arrival of newly displaced persons into already overcrowded gatherings has also strained the capacity of the limited facilities, increasing the risk of disease and rendering the camps more difficult to manage. Additional assistance will be provided to the affected camps in the coming weeks to reflect the increased needs.

24. Two recently released surveys of two internally displaced persons camps in north Darfur showed a vulnerable and fragile population almost completely dependent on humanitarian aid. The global malnutrition rate of 27 per cent reported in Abu Shouk camp is of particular concern, given that it is considerably above the emergency threshold, and the fact that Abu Shouk is the most well established camp in north Darfur and receives consistent food aid shipments. Taking these two surveys as proxies for the humanitarian situation in north Darfur, the continuation of the trend of the last two to three months in relation to insecurity and poor access could result in a drastic deterioration of the nutritional status of these affected populations, causing mortality rates to soar. At the same time, in south Darfur, MSF-Holland reported a steady decrease in the number of malnourished children requiring therapeutic and supplementary feeding in Kass, an indicator of a possible stabilization of the general situation for the affected population in that area.

25. The current security situation has also made it virtually impossible for most communities to return to their lands and resume planting. A recently released report of the International Committee of the Red Cross (ICRC) indicated that less than one third of the usual crop was planted in May, resulting in a sharply decreased harvest. Insecurity has also led to some crops not being harvested. With the failure of the 2004 harvest, the number of persons dependent on humanitarian assistance will increase further in 2005.

26. In May 2004, Sudan experienced an outbreak of polio, when the first polio virus imported from a neighbouring country was detected in west Darfur. This triggered an immediate response from the humanitarian community, which carried out a vaccination campaign targeting more than a million children in all Darfur states in July and August 2004. The August vaccination campaign included west Kordofan, following the appearance of a second polio case. Despite the vaccination campaign, Sudan is reporting an increased number of polio cases since the start of this outbreak. To date, 79 children have been paralysed due to polioviruses and the number is expected to increase. The humanitarian community is mobilizing resources to carry out another vaccination campaign from 10 to 12 January 2005 to

reach previously unreached areas. My Special Representative has called on the Government and all movements in the Sudan to establish three "days of tranquillity" over this period by confining military forces to barracks and lifting all restrictions on movement.

V. Funding

27. As of mid-December, about 85 per cent of the United Nations requirements of $535 million for operations in Darfur and Chad have been met. This is part of the total firm pledges and commitments made by the international community towards the Darfur crisis amounting to $1.1 billion since September 2003. This latter amount includes contributions to the United Nations agencies, NGOs, ICRC in Chad and Darfur, and AU ceasefire monitoring activities.

28. The 2005 work plan for the Sudan, launched on 30 November, has already received a positive response from donors. Donors have already pledged to this consolidated plan, which covers all sectors from relief to rehabilitation and development. As I previously reported, the financial needs for life-saving and life-sustaining humanitarian activities for Darfur are over $620 million, out of $1.5 billion for the whole of the Sudan. I thank donors for their initial swift response to this plan, and I encourage them to continue contributing to the relief efforts targeting the millions of vulnerable people in the Sudan in the continuing volatile situation.

VI. Humanitarian access

29. Insecurity in parts of north and south Darfur has led to the temporary closure of major roads and key areas of operation, preventing continued access to more than 330,000 people in need. While the situation in south Darfur has marginally improved since November, operations in north Darfur have been hampered by increased insecurity.

30. The attack by rebel forces in Ghabeish (west Kordofan) in late December and subsequent retaliation by the Government led WFP to suspend three convoys carrying more than 1,300 metric tons of food aid to Darfur. These events have effectively blocked overland access from central Sudan to the Darfur region and will have a severe impact on much-needed humanitarian aid deliveries. The detention of commercial trucks dedicated to WFP and drivers has led to more transporters expressing reluctance to deliver food to the region, particularly to south Darfur. WFP anticipates that only 70 per cent of planned food dispatches will be completed in December, and the build-up of stockpiles for January will not now be possible.

31. Save the Children UK decided to cease its operations in all three Darfur states, and withdrew its 350 staff members due to the tragic deaths of four of its staff in two separate incidents over the past two months. These brutal attacks must be condemned in the strongest terms. Humanitarian workers are neutral and have come to assist victims of violence in Darfur. The fact that these workers have come to be targeted by armed groups poses severe difficulties for humanitarian access, with grave consequences for assistance in the future. All parties must take full

responsibility for the actions of their fighters and must ensure full compliance with international humanitarian law.

32. Since the signing of the joint communiqué by the United Nations and the Government on 3 July 2004, establishing a moratorium on restrictions on humanitarian access, the Government has generally maintained this moratorium, although a limited number of visa problems have been reported by some NGOs in December. The announcement by the Government ordering the expulsion of the heads of two respected international NGOs was of great concern to the humanitarian and diplomatic community. Although the decision was subsequently suspended, the head of one of the organizations was once again requested to leave the country on 2 December citing an irregular visa application process. The actions taken against these two organizations not only impede vital humanitarian assistance but also constitute an unjustified attempt to interfere with the independence of their work.

33. The level of humanitarian access has continued to decline in SLM/A- and JEM-controlled areas due to the frequent lack of cooperation by field commanders and a lack of communication between them and their leadership. While work does continue in some of these areas, much more assistance is required and cannot be provided while SLM/A and JEM commanders continue to restrict movements and place unnecessary and impossible conditions on humanitarian agencies.

34. As I reported last month, rebel-held areas in north and south Darfur remain the least accessible for humanitarian agencies. Until now, NMRD-held areas have not been accessible to humanitarian workers. However, based on the Government-NMRD agreement of 19 December, the Government stated in the Joint Implementation Mechanism meeting on the same day that it would now ensure humanitarian access into NMRD-held areas.

VII. Return and relocation

35. There have been no reports of forced relocation or return during December. This is an improvement considering last month's forced relocations in south and north Darfur, and is the result of the now positive engagement with local authorities and a more planned approach to relocation and return. Humanitarian agencies, Government authorities and representatives of internally displaced persons are now collaborating to address the issue of voluntary returns and relocations in all the three Darfur states.

36. A working group under the Management Coordination Mechanism was set up in Nyala (south Darfur) to conduct technical and social assessments of potential relocation sites identified by Government authorities, internally displaced persons and international organizations. The sites proposed by the Government have been assessed by the group and ruled unsuitable for relocation due to security and other concerns. A number of additional proposed sites are currently being assessed by the group. Government authorities have cited overcrowded conditions in the camps and security concerns as the main trigger for discussing possible relocation of some of the approximately 100,000 internally displaced persons in Kalma camp and internally displaced persons locations within Nyala town.

37. In west Darfur, local authorities announced a rehabilitation programme and submitted to the humanitarian community a list of approximately 70 locations

identified as areas to be rehabilitated to facilitate the return of the displaced population. The humanitarian community, including the Deputy Special Representative for Humanitarian Affairs, who travelled to El Geneina on 12 December to address this issue, have reiterated that return and relocation should be discussed on the basis of agreed procedures, relevant international standards and humanitarian law. Cooperation with the local authorities has been good in this matter.

38. In north Darfur, humanitarian partners concluded an internally displaced person return survey, which sheds light on the current living conditions of internally displaced persons and assesses factors influencing their voluntary return to their places of origin and their expectations for assistance. The survey covered five per cent of internally displaced persons households in six large internally displaced persons gatherings in north Darfur where there has been significant pressure on internally displaced persons to return. Information collected will provide elements for appropriate and timely planning of interventions when conditions for return are in place.

VIII. Human rights and protection

39. The Government's road-clearing operations have triggered human rights violations, including killings, arbitrary arrests and destruction of homes, although it is difficult to ascertain the trend in the overall number of arbitrary arrests.

40. Rape and sexual harassment continued to be reported in December. Victims are still reluctant to testify against perpetrators as they are under close surveillance by police and national security officials, and police continue in many cases to refuse to register complaints. For example, three women who were allegedly raped by armed men in military dress riding camels while collecting wood and grass outside the Dereig internally displaced persons camp on 2 December went to report this to the police but were turned away. They were also refused hospital treatment, although they were later treated in the clinic of an international NGO. If victims speak out to humanitarian workers they are liable to interrogation and harassment.

41. In a positive development, the Minister of Justice issued a circular that removed some legal obstacles for victims of sexual assault. It is now clear that investigative procedures may commence without waiting for medical examination to be undertaken but that this should be done before a case is referred for trial. Victims may undergo such examination not only at public hospitals but also at private clinics recognized by the Ministry of Health, including those run by NGOs. The Ministry of Justice reported that during the two preceding months six rape cases had been decided by the courts in El Fasher, and perpetrators were convicted of rape or attempted rape in four cases.

42. The conditions under which human rights observers can visit places of detention remain a subject of discussion with the Khartoum and local authorities. The local authorities in north and west Darfur agreed to allow access to prisons and police detention centres, but an attempt to visit a prison in north Darfur failed as the observers were informed that they required advance written permission and would only be allowed to visit sentenced prisoners. The Khartoum authorities have indicated that access cannot be granted to detainees during the investigative stage, and access has not been extended to national security or military intelligence

detention centres from which torture is most frequently reported. The Government position in both cases is totally unacceptable.

43. The adoption of an overall strategy for the protection of civilians in Darfur by the United Nations in October was followed in December by the establishment of Protection Steering Groups for Darfur at both the Khartoum and field levels. Members include representatives of the International Organization for Migration, the Office for the Coordination of Humanitarian Affairs, the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme, the United Nations Population Fund, the United Nations Children's Fund, the United Nations High Commissioner for Refugees, three to five NGOs involved in protection in Darfur, AU and ICRC as an observer. These groups will take a collaborative approach in addressing various protection issues and will be the main driving force for protection information-gathering and dissemination, and for establishing intervention and advocacy strategies.

44. The number of human rights observers remains inadequate. In December, the observers numbered 10, with three in each Darfur state and a liaison officer in Khartoum. The number is projected to increase substantially in January and February. In December, the United Nations High Commissioner for Human Rights appointed a Senior Adviser on Human Rights in the Sudan, who, by the end of the month, had assumed responsibility for the direction of the activities of the office in Darfur and its effective integration in the United Nations advance mission in the Sudan. The mission in turn had requested authorization for a human rights component of 51 international human rights officers and 21 United Nations Volunteers, supported by national officers and local staff.

IX. The Darfur peace process

45. At the 5 December Joint Implementation Mechanism meeting, the Government asked the Mechanism whether they would recommend that it make contact with the new rebel movement, NMRD. The Mechanism partners were not positive, but my Special Representative said he would expect the Government to discuss humanitarian and security issues with the movement but to be careful of inviting them into political discussions. If they did so, they could find that they gain one partner but lose another, namely, JEM. Joint Implementation Mechanism partners warned the Government not to reward movements who fight their way to the table, and stated that non-armed groups should also be offered a place at the talks.

46. Since my last report to the Council, negotiations resumed in Abuja from 10 to 22 December between the Government and SLM/A and JEM. The talks were intended to focus on negotiating a joint declaration of principles that would lay the foundation for a political settlement of the crisis in Darfur. Unfortunately, the road-clearing operation launched by the Government on the eve of the talks, combined with a lack of commitment on the part of SLM/A, undermined and disrupted the talks. The parties are now engaged, with the assistance of AU and Chad, in an effort to stabilize the ceasefire with the view to resuming political talks in January 2005. This setback, together with the continued violations of the N'Djamena ceasefire agreement of 8 April 2004, has damaged the credibility of the Darfur peace process. The parties and the international community must deploy a serious, sustained and

collaborative effort in order to put the Abuja process back on track and to help propel it forward.

47. While the Government and JEM were represented at the same level as before in the most recent round of Abuja talks, the SLM/A senior leadership chose not to participate despite repeated calls by members of the international community. In addition, while the Government and JEM were ready to discuss the declaration of principles, the SLM/A delegation refused to engage in political talks until the security situation on the ground was restored. At the same time, violations of the ceasefire continued on the ground. According to a report of the AU Ceasefire Commission Chairman presented at the emergency meeting of the Joint Commission on 17 December in Abuja, the main cause of the violations centred on issues associated with the looting of livestock, the creation of road blocks, the movement and build-up of troops and the resolve of all the parties, including the armed militias, to adopt a retaliatory posture to any action taken by another.

48. In an attempt to salvage the talks, the AU mediation team requested the Government to immediately cease its operation and return its forces to previous positions, and requested the movements to immediately cease all attacks against roads and commercial traffic. The AU Ceasefire Commission declared its readiness to verify compliance. These requirements were reiterated by an emergency meeting of the Joint Commission held in Abuja on 17 December, endorsed by all the representatives of the international community present at the talks, and subsequently reiterated by a special envoy of the Libyan Arab Jamahiriya. Unfortunately, the parties argued over the wording of the requirements and the exact lines of eventual withdrawals rather than take decisive action on the ground to restore security. President Obasanjo of Nigeria met with the parties on the last day of the talks and reiterated the need to comply with the requirements. The Commission is scheduled to meet again in N'Djamena in early January 2005 to help the parties reach a clear and concrete agreement on effective measures to consolidate the ceasefire. It is my hope that the parties will cooperate in the Joint Commission, honour their previous commitments, comply with the letter and spirit of the ceasefire agreement without delay, and reconvene the political talks in January in a true spirit of reconciliation and compromise.

X. The African Union

49. Despite the positive role played by AU in providing a neutral assessment of the situation, defusing tensions through diplomatic efforts and providing security by presence, its operation was hindered towards the end of December by attacks on its personnel and by restrictions on its freedom to operate from the airports in Darfur.

50. On 4 December, during its assessment mission to Adwa following the Government attack on the town on 29 November, an AU military observer was deliberately targeted, sustaining minor injuries from a gunshot wound to the shoulder. In another of these incidents on 19 December, an AU helicopter carrying a team of AU observers was shot at by unidentified attackers in south Darfur. No injuries were reported, but the helicopter sustained a number of gunshot holes. AU is currently investigating the situation. As a result of the incident, AU had to temporarily suspend all its monitoring flights in south Darfur. It is the responsibility of the parties to ensure that such deplorable incidents are not repeated in future.

51. At the 19 December Joint Implementation Mechanism meeting, the AU representative pleaded for full access, including the use of airports to fulfil its mandate in Darfur, as their military observers were denied access to the airport when trying to conduct an assessment mission earlier in Labado. The Foreign Minister assured the representative that the Government would guarantee full access to AU to fulfil its mandate in Darfur.

52. The 2 December Kebkabiyah incident is an example of successful diplomatic intervention by the AU Ceasefire Commission and illustrates the importance of having sufficient African Union Mission in the Sudan troops on the ground. When there were rumours of possible armed militia attack on the Kebkabiyah market, the Ceasefire Commission intervened and discussed with the militia the readiness of AMIS to protect the civilians if attacked and also its resolve to defend itself under similar circumstances. Such strong messages bore fruit, not least because the sector in question is the one where the greatest number of AMIS troops have been deployed.

53. AMIS reports that, including the latest deployment of 196 Gambian troops, it now has 1,056 troops on the ground, with transport assistance from the German Government. That number is just one third of the total 3,200 personnel planned to be deployed by February 2005. Troops for the protection element are expected to arrive from Nigeria and Senegal before then.

XI. The North-South peace process

54. I welcome the initialling on 31 December 2004 by the Government of the Sudan and SLM/A of the last two agreements of the north-south peace process, namely, the Agreement on the Implementation Modalities of the Protocols and Agreements, and the Agreement on the Permanent Ceasefire and Security Agreements Implementation Modalities. These constitute an integral part of the Comprehensive Peace Agreement. I commend the dedication of the Sudanese delegates, who persevered to bring the talks to a successful conclusion by the agreed timeline.

55. I also hail the relentless diplomatic efforts of the Intergovernmental Authority on Development, led by its indefatigable Chief Mediator, General Lazarus Sumbeiywo, which were instrumental in bringing about a final agreement, and I thank the Government of Kenya for its sustained support for the negotiations, and other Governments, in particular those of the troika, for their substantial assistance.

56. I look forward to the official signing of the Comprehensive Peace Agreement, in which the United Nations is prepared to play a significant role. This role will be defined in detail in a report to the Security Council pursuant to its resolutions 1547 (2004) and 1574 (2004), in which it declared its readiness to consider establishing a United Nations peace support operation to support the implementation of a comprehensive peace agreement, and requested me to submit recommendations for the size, structure, and mandate of this operation, as soon as possible after the signing of the Comprehensive Peace Agreement.

57. I am, however, concerned that as the date for the official signing of the Comprehensive Peace Agreement is nearing, there is no agreed upon basis that would allow the United Nations advance mission in the Sudan to start its pre-

deployment activities, including military reconnaissance missions, in the SLM/A-controlled areas. These activities are absolutely crucial for the success of a peace support operation that will have to be launched expeditiously, in the particularly prohibitive environment of southern Sudan. The logistical, geographic and security challenges are enormous. I hope that the SLM/A will follow up on its oral commitments given to me and my senior aides and will respond immediately to the request of the Security Council to cooperate fully with the United Nations, to enable the United Nations advance mission to complete preparations for the deployment of a fully fledged mission in support of the Comprehensive Peace Agreement.

XII. Concluding observations

58. Six months after I travelled to the Sudan and the Government agreed to the joint communiqué, there is a political stalemate. The security situation is still very poor. Regarding humanitarian access, the picture is mixed.

59. Talks between the parties on Darfur have not yielded concrete results or much narrowing of the gap on the issues. Despite regular statements to the contrary, the parties have yet to commit in practice to the implementation of the humanitarian ceasefire.

60. On security, new problems have come into focus in December. Violence, hitherto a source of fear on the fringes of internally displaced persons centres and in conflict areas, is seeping into the camps themselves and directly affecting humanitarian workers. The internally displaced persons are still suffering and refugees are not returning in sufficient numbers to allow the planting of crops to sustain their families for the coming year. Restriction on freedom of movement is causing livestock to be lost on a huge scale. The pressures on the parties to abide by their commitments are not having a perceptible effect on the ground. This leads me to conclude that we need to reconsider what measures are required to achieve improved security and protection for the internally displaced persons in Darfur.

61. The volume of assistance and access has expanded over the last six months but the number of conflict-affected people has increased too, leaving many still beyond the reach of assistance and consequently short of food, water and other elements of a secure and healthy life. The fighting now affects humanitarian work more frequently and more directly than bureaucratic restrictions ever did, with fatal and tragic consequences.

62. The armed groups are re-arming and the conflict is spreading outside Darfur. Large quantities of arms have been carried into Darfur in defiance of the Security Council decision taken in July. A build-up of arms and intensification of violence, including air attacks, suggest that the security situation is deteriorating. New rebel movements are emerging and launching attacks in the area of oil facilities in western Kordofan. I am concerned that we may move into a period of intense violence unless swift action is taken. In the long term, the signature of the Comprehensive Peace Agreement will improve capacity to solve the problems in Darfur. However, I expect the signature of the agreement to be followed in the short term by an intensification of violence in the region.

63. The Comprehensive Peace Agreement will remove some of the stumbling blocks and pave the way for a new approach. However, a number of issues need the

immediate attention of the international community, both regarding the ceasefire and the political talks. Regarding the former, a move from the current fragile ceasefire to a resolution to the conflict in Darfur depends on accomplishing six tasks:

(a) The attacks in January suggest that the parties are so far failing to use the momentum offered by the agreement in Naivasha. They must be persuaded, by a combination of pressure and assurances from influential member States, that it is truly in their interests to pursue a settlement through peaceful means and respect the ceasefire. Then they must communicate their troop locations to the AU Ceasefire Commission and agree on a plan of separation of forces. This is the single most important precondition for movement on the steps outlined below;

(b) To minimize attacks by armed personnel on civilians, the parties must identify practical means to ensure that their forces' basic survival needs are met, including supplies to the combatants, without violating the ceasefire;

(c) The Joint Commission, in its current composition and modalities, is too dependent on the good will and cooperation of the parties, which has so far prevented most of its recommendations from being implemented. An amendment to its modalities would go a long way towards improving the credibility and effectiveness of the Commission;

(d) Proactive follow-up on the implementation of previous commitments and obligations could reduce the level of violence on the ground and build confidence in the peace process;

(e) The strengthening of the AU force on the ground has proved to be effective not only in performing monitoring tasks but more importantly in protecting the civilian population by a combination of deterrence and good offices. AU has not been able to put in as many forces as originally hoped, and they need help from the international community to make it happen. We need to do whatever is required, working with AU and others, to accelerate the rate of deployment and ensure that we have more troops on the ground to assist;

(f) Those who are perpetrating violations of human rights law and crimes under international humanitarian law must not go unpunished. Indications that the militias are once again active in connection with Government offensives are worrying in this regard. The failure of the Government to act in compliance with the demands of the Security Council contained in its resolution 1556 (2004) has consequences for the determination of responsibility for these crimes. All support must continue to go to the Commission of Inquiry set up to look into these matters.

64. Regarding the political process itself, action in three areas could be key to putting the Abuja process on the right track. First, the parties should commit themselves to proceeding with political talks without further delay. While not underestimating the importance of compliance with the ceasefire agreement, security issues should be addressed by the AU Ceasefire Commission and the Joint Commission could, through their cooperation and sharing of information with the United Nations advance mission in the Sudan, bring infractions to the attention of the Security Council, as needed. Second, we must assist the parties to agree on a declaration of principles that addresses the core issues of power and wealth sharing, as well as the integration of the Darfur peace talks into the wider process of peacemaking in the Sudan. Third, while the current negotiation process between the Government, SLM/A and JEM should proceed, it would be useful to start thinking

of ways to create a broad and strong support base for a sustainable peace. Restoring peace in Darfur will require reconciliation and restoration of the social fabric in that region. Reconciliation will have to include all social groups and segments of the population in Darfur, especially non-armed groups and victims of the current violence.

65. The only alternative to finding new measures is to find a way of deploying as many personnel on the ground as possible, as all agree that the presence of monitors and police and an international presence often dissuade the attacks. The AU force, itself now under threat of attack, has done more than any other outside agent to improve the security situation on the ground by its presence and its actions to mediate and forestall violent actions. Whatever actions and new initiatives are undertaken, AU, both in its troops on the ground and its leadership of the political process, will remain, for the foreseeable future, the best mechanism for promoting peace in Darfur.

66. In conclusion, I would like to thank the African Union for its continued efforts, despite the shortage of personnel, to help achieve peace and ameliorate the situation on the ground in Darfur.

United Nations S/2005/10/Corr.1

Security Council

Distr.: General
19 January 2005

Original: English

Report of the Secretary-General on the Sudan pursuant to paragraphs 6, 13 and 16 of Security Council resolution 1556 (2004), paragraph 15 of resolution 1564 (2004) and paragraph 17 of resolution 1574 (2004)

Corrigendum

Paragraph 57, first and fourth sentences

For SLM/A *read* SPLM/A.

05-21380 (E) 190105

United Nations S/2005/11

Security Council

Distr.: General
7 January 2005

Original: English

Letter dated 7 January 2005 from the President of the Security Council addressed to the Secretary-General

I have the honour to inform you that your letter dated 20 December 2004 (S/2004/985), concerning your intention to appoint Volker Beck (Germany), Richard T. Cupitt (United States of America), Roque Monteleone-Neto (Brazil) and Victor S. Slipchenko (Russian Federation) as experts to assist the work of the Committee established pursuant to resolution 1540 (2004) has been brought to the attention of the members of the Security Council. They take note of the intention expressed in your letter.

(*Signed*) César **Mayoral**
President of the Security Council

05-20221 (E) 070105

United Nations S/2005/12

Security Council

Distr.: General
10 January 2005

Original: English

Letter dated 7 January 2005 from the Secretary-General addressed to the President of the Security Council

Pursuant to Security Council resolution 1483 (2003), I have the honour to convey the attached letter from my representative on the International Advisory and Monitoring Board for Iraq outlining the activities of the Board in 2004 (see annex).

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

05-20379 (E) 110105

Annex

Letter dated 6 January 2005 from the representative of the Secretary-General on the International Advisory and Monitoring Board addressed to the Secretary-General

As your representative on the International Advisory and Monitoring Board (IAMB) for Iraq, I am pleased to provide you with a recap of the actions of IAMB during 2004.

My colleagues on IAMB and I have prepared a report which covers our operations from the establishment of IAMB until the completion of the audits covering the period during which the Coalition Provisional Authority was responsible for the Development Fund for Iraq (DFI). The report was released on 14 December 2004 and, as is the case with all IAMB documentation, was placed on the IAMB web site to make it available to the widest possible audience. A press release was issued to announce the availability of the report. The report presents the comments and conclusions of IAMB with respect to the audits of the oil export sales and the DFI operations for the period up to the transition of authority to the Interim Government of Iraq. I am enclosing a copy for your convenience.

IAMB met nine times in 2004. It approved the appointment of independent public accountants to audit DFI and Iraq's oil export sales. It ensured that the external auditor conducted its work in accordance with international auditing standards. IAMB received regular briefings on the progress of the audits.

The external auditor presented reports covering the period from inception to 31 December 2003 and covering the period from 1 January to 28 June 2004. IAMB concluded that the audits were conducted in accordance with agreed terms of reference and in accordance with appropriate standards.

The audit firm has concluded that all known oil proceeds, reported frozen assets and transfers from the oil-for-food programme have been properly and transparently accounted for in DFI. At the same time, on the basis of a review of the audit reports, IAMB believes that controls were insufficient to provide reasonable assurance (a) for the completeness of export sales of petroleum and petroleum products and (b) whether all DFI disbursements were made for the purposes intended. The priority findings of the audit reports include:

- Weaknesses in controls over oil extraction, including the absence of metering, resulting in the audit firm qualifying its audit opinions of the DFI statements of cash receipts and payments
- Control weaknesses in the administration of resources handled by the Coalition Provisional Authority, including inadequate record-keeping and accounting systems, and the uneven application of agreed-upon contracting procedures
- Inadequate controls identified at Iraqi spending ministries, including the absence of reconciliation procedures, insufficient payroll records, deviation from tendering procedures and inadequate contract monitoring by the Coalition Provisional Authority relating to payments on behalf of the Iraqi ministries

The audit reports have been submitted to the Iraqi Council of Ministers and the Coalition Provisional Authority. The control weaknesses identified in the audit reports all require attention and follow-up. As a matter of priority, the financial reporting and control systems need to be improved in key Iraqi disbursing ministries, including the State Oil Marketing Organization, and the regional Governments to overcome the identified control weaknesses, and controls need to be strengthened over oil extraction, as the principal source of income of Iraq.

These reports are available on the IAMB web site.

At the last meeting held in December, the Iraqi Government submitted to IAMB the result of its review of tenders for the nomination and appointment of an external auditor for DFI for the period 29 June to 31 December 2004. IAMB was satisfied that the review and selection process had been carried out properly and concurred with the recommendation of the Government for the appointment of KPMG as external auditor. Fifteen auditors from the Board of Supreme Audit of Iraq will be assigned to KPMG to assist in the audit and thereby facilitate transition when IAMB ceases to exist and the Board of Supreme Audit assumes the functions of IAMB.

The Board received six audit reports prepared by the United States Defense Contract Audit Agency on sole-sourced contracts which it had previously sought.

IAMB agreed to the terms of reference for a special audit of sole-sourced contracts using DFI funds proposed by the United States Government, to be completed by an independent auditor. The audit, which will cover the period up to the dissolution of the Coalition Provisional Authority, is expected to be completed by April 2005 and is to be made public. The audit will (a) identify non-competitively awarded contracts that used DFI funds, (b) summarize the findings of audits of such contracts that have already been conducted by various United States Government audit agencies and (c) if any non-competitively awarded contracts have not been the subject of audit, perform audit procedures of such contracts.

(*Signed*) Jean-Pierre **Halbwachs**
Representative of the Secretary-General to the
International Advisory and Monitoring Board

United Nations S/2005/13

Security Council

Distr.: General
11 January 2005
English
Original: Arabic

Letter dated 10 January 2005 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General

I have the honour to inform you that the Government of Lebanon requests the Security Council to extend the mandate of the United Nations Interim Force in Lebanon (UNIFIL), which expires on 31 January 2005, for an additional period of six months under Security Council resolutions 425 (1978) and 426 (1978), both of 19 March 1978. The Government of Lebanon believes that UNIFIL still needs to continue its work in the south of Lebanon in order to complete the missions entrusted to it under these two resolutions, particularly the "restoration of international peace and security" in the region, as you indicated in your periodic reports to the Security Council and as Alain Pellegrini, UNIFIL Force Commander, stated on 16 December 2004.

The fact that Israel persists in its grave violations of the Blue Line by land, sea and air on a daily basis amounts to a constant attack against Lebanon's sovereignty, security and integrity and is in flagrant contravention of Security Council resolution 425 (1978). You rightly said that those violations were "provocative" and "unjustified" in paragraph 31 of your most recent report on UNIFIL (S/2004/572), submitted to the Security Council on 21 July 2004. The Security Council, in its resolution 1553 (2004), its latest resolution on UNIFIL, also highlighted those violations, characterizing them, in paragraph 7, as "continuing" violations "that could further escalate the tension" in the region.

Lebanon also wishes to mention that in 2000 the United Nations did not ensure Israeli withdrawal from all Lebanese territory to the internationally recognized boundaries as set forth in resolution 425 (1978), but rather to a de facto withdrawal line known as the "Blue Line", which Lebanon has respected until now, despite the fact that it previously registered and continues to uphold its reservation in that regard, especially in respect of three points on the Line which it considers as not matching the internationally recognized boundaries. Lebanon therefore reaffirms its legitimate right to them and demands that they be returned.

Lebanon wishes to maintain security and calm along the Blue Line and is working to spread stability and growth to the liberated regions. In this context, the Government of Lebanon organized municipal elections in mid-2004 throughout the south and in its formerly occupied villages. In your most recent report on UNIFIL (S/2004/572), you indicated that the entire region successfully took part in the elections and that the free exercise of the democratic process was a clear assertion

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of the exercise of authority by the Government of Lebanon. The monthly communications on the Middle East addressed to the Security Council by the Under-Secretary-General for Political Affairs, Mr. Kieran Prendergast, more than once noted the measures taken by the Government of Lebanon to control the situation along the Blue Line.

In this context, Lebanon emphasizes that maintaining the UNIFIL mandate as provided in Security Council resolutions 425 (1978) and 426 (1978), with the current level of troops, will constitute a reaffirmation of the international community's commitment to restoring the sovereignty of Lebanon over all its territory and the strong support for Lebanon's territorial integrity, sovereignty and political independence within its internationally recognized boundaries evinced by the Security Council in its successive resolutions on the matter, the most recent of which is resolution 1553 (2004).

I take this opportunity to commend, on behalf of the Government of Lebanon, the efforts of the command and members of UNIFIL and the efforts and sacrifices made by the States participating in UNIFIL in carrying out the Force's mandate.

Lebanon greatly appreciates the efforts of donor States in that area. Inasmuch as it has become clear to the United Nations that there remain further maps and other documents indicating the locations of the mines left by the Israeli occupation in Lebanese territory, Lebanon calls on the Security Council to pressure Israel to hand over the rest of those documents. The mines continue to cause death and injuries to Lebanese civilians and curtail their freedom of action and movement. In addition, they hamper the movements of UNIFIL and interfere with the performance of its mission within its area of operation, endangering the lives of individuals working in UNIFIL and persons carrying out demining operations. Lebanon further calls on the Security Council to work to secure the release of all Lebanese unlawfully detained in Israeli prisons, in some cases for many years, in flagrant violation of the 1949 Geneva Conventions and the protocols additional to those conventions.

Lebanon desires to reaffirm its commitment to the peace process in the Middle East aimed at the achievement of a just and comprehensive peace in the region based on international legitimacy, the Madrid Conference and the principle of land for peace and in accordance with the integrated Arab peace initiative unanimously adopted at the Beirut Summit on 28 March 2002 and approved by the Security Council.

The Government of Lebanon expresses to you its appreciation for your untiring efforts in support of the role of the United Nations Interim Force in Lebanon.

(*Signed*) Sami **Kronfol**
Permanent Representative

Hezbollah activity, sponsored by Iran and Syria, that is directly designed to thwart international efforts to improve the situation on the ground.

The failure of the Government of Lebanon to restore peace and security, ensure the return of its effective authority, disband and disarm Hezbollah, and prevent cross-border attacks from its territory is what compels Israel to engage in defensive actions and is the direct cause of instability in the area. Each of these failures represents a direct negation of basic obligations under international law and the provisions of Security Council resolutions, including resolutions 425 (1978), 426 (1978), 1310 (2000), 1337 (2001), 1373 (2001), 1553 (2004), 1559 (2004) and 1566 (2004).

Lebanon, Syria and Iran are not absolved of their legal obligations to fight terrorism, like any other State, as part of the global campaign against international terrorism. The international community should place the responsibility where it belongs and do its utmost to bring about an end to this dangerous situation, and demand nothing less than full compliance by these countries with their international obligations.

I should be grateful if you could arrange to have the text of the present letter circulated as an official document of the fifty-ninth session of the General Assembly, under agenda items 148, "Measures to eliminate international terrorism", and 36, "The situation in the Middle East" and of the Security Council.

(*Signed*) Ambassador Dan **Gillerman**
Permanent Representative